

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

MARY PARKER,	§	
Plaintiff,	§	
V.	§	
	§	
REBECCA PARKER,	§	A-24-CV-405-DII-ML
Defendant.	§	

**ORDER ON *IN FORMA PAUPERIS* STATUS AND
REPORT AND RECOMMENDATION ON THE MERITS OF THE CLAIMS**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff Mary Parker filed a Motion to Proceed *In Forma Pauperis* and Financial Affidavit in Support (Dkt. 2) on April 17, 2024. Because the information Plaintiff provided in her IFP application was insufficient for the court to properly evaluate her IFP status, the court ordered Plaintiff to resubmit her application using the court’s standard form no later than May 17, 2024. *See* Dkt. 5. Plaintiff was warned that failure to comply would result in this court’s recommending dismissal of her complaint for want of prosecution. To date, however, the court has not received a response to its Order. Instead, the court’s Order was returned to the court. Dkt. 6.

Plaintiffs have an obligation to keep their mailing address current with the court. A district court has authority to dismiss a case for want of prosecution or failure to comply with a court order. FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998) (“A district court *sua sponte* may dismiss an action for failure to prosecute or to comply with any court order.”). This authority “flows from the court’s inherent power to control its docket and prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins. Co.*, 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626 (1962)). Such a dismissal may be with or without prejudice. *Long v. Simmons*, 77 F.3d 878, 879-80 (5th Cir. 1996). A dismissal

with prejudice is appropriate only if the failure to comply with the court order was the result of purposeful delay or contumacious conduct and the imposition of lesser sanctions would be futile. *Id.*; *Berry v. CIGNA/RSI-CIGNA*, 975 F.2d 1188, 1190-91 (5th Cir. 1992).

ORDER AND RECOMMENDATIONS

Accordingly, the court **DISMISSES WITHOUT PREJUDICE** Plaintiff's Motion to Proceed *In Forma Pauperis* (Dkt. 2) and **RECOMMENDS** the District Judge **DISMISS WITHOUT PREJUDICE** Plaintiff's cause of action pursuant to Federal Rule of Civil Procedure 41(b).

The referral of this case to the Magistrate Judge should now be canceled.

SERVICE

The undersigned directs the Clerk of Court to serve this Report and Recommendation by regular mail and by certified mail return receipt requested on Plaintiff at the address Plaintiff previously provided.

WARNING

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. *See Battles v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report and, except upon grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the

District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985);
Douglass v. United Services Automobile Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc).

SIGNED June 4, 2024.



MARK LANE
UNITED STATES MAGISTRATE JUDGE